

THE FAYETTE COUNTY PLANNING COMMISSION held a **Public Meeting/Workshop** on March 15, 2012, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Board of Commissioners Conference Room, Suite 100, Fayetteville, Georgia.

MEMBERS PRESENT: Tim Thoms, Chairman
Al Gilbert, Vice-Chairman
Bill Beckwith
Jim Graw
Douglas Powell

MEMBERS ABSENT: None

STAFF PRESENT: Pete Frisina, Director of Community Development
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator
Deputy Hank Meyers, Marshal's Office

STAFF ABSENT: Dennis Dutton, Zoning Administrator

GUESTS: Bobby Wiggins
Melissa Harris

Welcome and Call to Order:

Chairman Thoms called the Public Meeting/Workshop to order and introduced the Board Members and Staff.

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1. Discussion of proposed amendments to the Fayette County Comprehensive Plan Land Use Element and the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding: the SR 74 South, SR 85 South, and Padgett Road intersection.

Pete Frisina presented several maps of the SR74, SR 85 and Padgett Road intersection including the zoning setbacks and buffers drawn on several of the surrounding properties, existing zoning, existing land use and proposed land use. The land use maps also included the floodplain area. He reported that there were a number of areas located in close proximity to the subject intersection that are zoned one acre residential. He said that some of the properties were impacted by the setbacks and buffers leaving little area for development as parking, a septic system plus a replacement area, and stormwater facilities are required to be accommodated and because of this, the area for nonresidential development needs to be expanded.

Pete Frisina presented maps showing the proposed land use designations as follows: Corner 1 as commercial and the flag lot and the property south of the flat lot as office; Corner 2 up to Waterfall

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Way to the north as commercial and property to the east to Watershed Way as office with the properties to the north as Low Density Residential (1 unit/1 to 2 acres); and Corner 3 as commercial to the power line easement and south of the power line easement as Low Density Residential (1 unit/1 to 2 acres). He added the land use designation for Corner 4 would not change at this time due to the uncertainty of the property owned by DOT and the old road bed of Padgett Road that is owned by the County.

The PC concurred with the proposed land use designation for Corner 3.

Melissa Harris said she was the broker for Corner 1 and anticipated some type of aesthetically pleasing convenience store with gasoline with alcoholic beverage sales or a duo-restaurant or up-scale coffee shop with some lunch items and/or up-scale sit-down restaurant.

Doug Powell remarked this intersection is the gateway into Fayette County. He pointed out Starr's Mill is a historical site and the proposed structures in the area should be similar. He added aesthetically an up-scale sit-down restaurant and the view of historic Starr's Mill in the distance may work on Corner 2; however, he objected to locating a convenience store with gasoline sales on this corner due to Starr's Mill.

Al Gilbert remarked he could visualize an old country store with old country store gas pumps, with the gas pumps limited in number. He said, at this intersection, two (2) convenience stores with gasoline sales may be suitable for the intersection.

Jim Graw disagreed with Al Gilbert in regards to two (2) convenience stores with gasoline sales.

Chairman Thoms, Al Gilbert, and Bill Beckwith expressed concern about dictating what uses could be located on a specific corner.

Pete Frisina advised the PC they may want to develop a Special Development District and specify the allowed and prohibited uses, including architectural standards.

Doug Powell stated that the architectural standards should preserve the historic character of Starr Mill and the area.

Melissa Harris said she would like to see the historical landmark preserved with some touches of modernization also.

Doug Powell and Al Gilbert commented they were not satisfied with the proposed land use on Corner 2.

Jim Graw remarked he liked the proposed land use designations for each corner as presented.

Doug Powell suggested expanding the commercial land use designation on Corner 2 for the entire lot belonging to the church on the east side of SR 74 South and north of Waterfall Way.

Pete Frisina said he was recommending that the commercial land use stop at Waterfall Way and not extend further north along SR 74.

Bill Beckwith suggested Corner 2 be land used for a County Park.

Doug Powell concurred.

Pete Frisina advised the County has already turned down an offer to buy the property and staff was not going to land use the property for a County Park. He said if the County owned the property, he would be happy to make the land use designation for a County Park.

Chairman Thoms said he would prepare a memo to the BOC recommending that the County purchase the property for a park and then land use Corner 2 for a County Park and the PC concurred.

Jim Graw suggested to state in the memo that Corner 2 does not lend itself to a positive traffic pattern.

Pete Frisina asked what specifically the PC would like to see in the Special Development District.

Doug Powell suggested that the Special Development District address architectural control and the uses that will be allowed.

Al Gilbert suggested stone and synthetic sidings which look like wood but not stucco or brick and that the residential character in the L-C zoning district and SR overlay may not be appropriate.

Doug Powell suggested a building which looks like Cracker Barrel.

Pete Frisina said he would try to get the renderings presented at the rezoning for SR 85 South and 85 Connector several years ago.

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2. **Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding: Telecommunication Antennas and Towers.**

Pete Frisina presented the proposed amendments to the Tower Ordinance, in its entirety, as follows:

ARTICLE V. GENERAL PROVISIONS

Sec. 5-47. Standards for Telecommunications Antennas and Towers.

- A. *Purpose and Intent.* The purpose of this ordinance is to establish minimum development standards for the regulation of commercial telecommunications transmission towers, including, but not limited to: cellular and Personal Communications Systems (PCS) towers, broadcasting towers, two-way radio towers, fixed-point microwave dishes, commercial satellites and receiving dishes, and related equipment cabinets and/or buildings. The intent of this ordinance is: (1) to implement the provisions of the Telecommunications Act of 1996, on a local level; (2) to control placement of towers and antennas in a way that minimizes the adverse visual impact to nearby properties by locating towers and antennas in non-residential areas or in areas where the adverse impact on the community is minimal; and (3) to advocate the shared use of ~~new and~~ existing ***and planned*** tower sites through co-location, thereby discouraging the proliferation of towers throughout Fayette County.
- B. *Authority.* Only the Board of Commissioners has the authority to reduce or waive the requirements under this section through the public hearing procedure.
- C. *Applicability.*
1. *District Height Limitations.* Height limits specified for each zoning district shall not apply to towers and antennas. The requirements set forth herein shall govern the height of towers and antennas.
 2. *Governmentally Owned Property.* These requirements shall not apply to any governmentally owned property, including: properties owned by the Board of Commissioners, Board of Education, or a municipality, as well as, the State or Federal government, that are used for the location of any tower facility.
 3. *Amateur Radio Antennas.* This ordinance shall not govern any amateur radio tower, or the installation of any antenna, that is less than 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator.
 4. *Pre-Existing Towers and Antennas.*
 - a. Any tower or antenna which existed prior to ~~December 10, 1998,~~ **(fill in date ordinance is adopted)** that does not comply with the requirements herein shall be deemed legally nonconforming. Any enlargement of a pre-existing tower or tower facility, shall meet the requirements herein. Co-location of an antenna which does not increase the height of the tower or placement of additional equipment cabinets or buildings within the existing tower facility shall be allowed under the provisions of Site Plan Requirements.

- b. Replacement of a pre-existing legally nonconforming tower structure is permitted provided that all of the following apply:
 - i. The replacement tower is constructed within 25 feet of the existing tower and is not greater in height than the existing tower.
 - ii. The tower being replaced is removed from site within 90 calendar days from the issuance of the Certificate of Occupancy for the replacement tower;
 - iii. Additional co-location opportunities on the new tower are made available with the minimum users required based on tower height; and
 - iv. A site plan indicating the location of the replacement tower shall be required.
- D. *General Requirements.*
 - 1. Towers and tower facilities shall be on a lot which meets the minimum ~~lot size~~ requirements for the zoning district in which it is located. Towers and tower facilities may be located on a lot containing another use. Towers and tower facilities may occupy a leased area being a portion of the lot.
 - 2. Internal setbacks for towers, tower facilities, and anchors shall be measured to the boundaries of the lot, not the boundaries of the leased area. Setbacks for towers shall be measured from the base of the tower.
 - a. All towers shall be set back from all adjoining properties zoned residential or A-R a distance equal to the height of the tower plus 10 feet.
 - b. All towers shall be set back from all adjoining properties zoned non-residential a distance of 100 feet.
 - c. All towers shall be set back from the street right-of-way (existing or required) a distance equal to the height of the tower. Street right-of-way is based on the classification of the street (see County Code, Development Regulations.)
 - d. All towers, excluding alternative tower structures, shall be set back from any off-site residence a distance equal to three (3) times the tower height or a minimum of 500 feet, whichever is greater.
 - e. Any tower facility and anchors for guyed towers shall comply with the minimum required setbacks and/or buffers of the applicable zoning district.
 - f. All towers shall be set back from all adjacent municipalities and counties a minimum distance of 1,000 feet.**
 - 3. Towers located on the same lot as a private school or day care center shall be set back a distance equal to the height of the tower from all facilities, excluding parking areas. This provision shall not apply to an alternative tower structure which is allowed in conjunction with a Private School Conditional Use.
 - 4. All towers, excluding alternative tower structures, shall be structurally designed to accommodate the following minimum numbers of carriers based on height of the tower:
 - a. up to 70 feet: one (1) carrier;
 - b. greater than 70 up to 120 feet: two (2) carriers;

- c. greater than 120 feet up to 150 feet: three (3) carriers;
- d. greater than 150 feet up to 180 feet: four (4) carriers;

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- e. greater than 180 feet up to 250 feet: five (5) carriers; and
 - f. greater than 250 feet: six (6) carriers.
5. All tower facilities, excluding tower facilities associated with alternative tower structures, shall be enclosed by a steel chain link fence not less than eight (8) feet in height, with slat inserts for screening. Access to the telecommunication tower shall be through a locking gate. In addition, a minimum of three (3) strands of barbed wire shall be used along the top of the fence to prevent unauthorized access to the tower.
 6. A landscaped strip 10 feet in width surrounding the perimeter of the tower facility shall be required. Landscaping shall be staggered double rows of evergreen trees a minimum of six (6) feet in height when planted and spaced every 10 feet on center. Landscaping shall be installed on the outside of the required security fence. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, the Zoning Administrator may determine that natural growth around the property perimeter may be sufficient in lieu of the required landscaping. If existing vegetation is to remain and requested to count toward the landscaping requirements, all such information, including location, size, and type of vegetation shall be indicated on the site/landscape plan. These requirements shall not apply to a tower facility associated with an alternative tower structure.
 7. Maximum height for all towers and antennas is 500 feet. Tower height shall be measured from the natural grade of the ground at the location of the tower to the highest point of the tower, including any antenna. If minimal grading (elevation of one [1] to two [2] feet above natural grade) is required to level the ground for the tower base, tower height shall be measured from the finished grade approved by the County Engineer.
 8. No signage, **other than required safety signage**, shall be placed on a tower structure or antenna.
 9. ~~*Inventory of Existing or Planned Tower Sites.* No new tower shall be permitted unless the applicant demonstrates to the satisfaction of the County that no existing tower or any planned towers can accommodate the applicant's proposed antenna. All evidence shall be signed and sealed by appropriate licensed professionals or qualified industry experts. All of the following shall be required to sufficiently demonstrate that no existing or planned tower can accommodate the proposed antenna:~~
 - a. ~~Each applicant for a new tower and antenna shall contact the owners of all existing and planned tower sites, including those located within the zoning jurisdictions of municipalities and/or other counties, that are within the search area of the applicant's proposed tower or antenna location, and provide the Planning and Zoning Department with an inventory of said tower sites at the time of application submittal.~~

~~The inventory shall include the following information:~~

- ~~i. All tower owners and the number of carriers for each tower site;~~
- ~~ii. The site location, total height, and design type of each tower;~~
- ~~iii. Details of all existing and planned towers or structures located within the search area and the ability of such to meet the applicant's engineering requirements, including, but not limited to: sufficient height, structural~~

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- ~~support strength, and electromagnetic interference with antenna(s) on the existing towers or structures;~~
 - ~~iv. Other limiting factors that render existing towers and structures unsuitable; and~~
 - ~~v. Letters of rejection for requests to co-locate on all existing and planned towers within the service area of the proposed tower.~~
 - ~~b. The Planning and Zoning Department may share such information with other applicants applying for approval under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided; however, that the Planning and Zoning Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.~~
 - ~~e. If it is determined that the applicant cannot feasibly locate an antenna on an existing tower or planned tower, the applicant shall demonstrate that the proposed new tower is designed to accommodate the required number of carriers.~~
10. *Aesthetics and Lighting Requirements.* The following compatibility standards shall govern the aesthetics and lighting of any tower facility, including the installation of antennas on towers.
- a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, so as to reduce visual obtrusiveness.
 - b. If an antenna is installed on a structure other than a tower, the antenna and equipment cabinets shall be architecturally compatible with, the color and texture of the supporting structure. Roof mounted equipment cabinets shall be screened so as to make the equipment visually unobtrusive.
 - e. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. ~~If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.~~
11. *Federal Requirements.* ~~All towers shall meet current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate towers and antenna, including modulation studies on frequency usage, to avoid interference with existing systems in operation.~~
12. *Building Codes and Safety Standard Requirements.* ~~To ensure the structural integrity of~~

~~towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended. If, upon inspection, the governing authority concludes that a tower fails to comply with such codes and standards or that such tower constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 60 days to bring such tower into compliance.~~

13. *Removal of Abandoned Antennas and Towers.* Prior to the abandonment of any tower or antenna, a copy of the notice of Intent to Abandon required by the FCC shall also be

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submitted to the Fayette County Planning and Zoning Department. Any antenna or tower, including pre-existing towers and antennas, that is not in use for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the governing authority notifying the owner of such abandonment. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

14. *Performance Bond Required.* Prior to the issuance of a Certificate of Occupancy for a new tower structure, every applicant shall be required to deposit a performance bond with Fayette County. The amount of the bond shall be equal to 10 percent of the total construction cost or a minimum of \$5,000, whichever is greater. Such bond shall be required upon compliance with all aspects of this section and shall be applicable to any assignee and owner of any permit granted hereunder, or any employee, contractor, subcontractor, or other party performing services in connection with any Certificate of Zoning Compliance issued by the Planning and Zoning Department. The required performance bond shall be released only upon demolition of the tower and restoration of the site to the pre-development conditions. The approved format of the bond is available in the Planning and Zoning Department.

E. *Supplemental Requirements.* In addition to the General Requirements above, the following Supplemental Requirements shall apply as specified below.

1. *Highway Corridor.* Locating towers along the following highway corridors is permitted as an overlay zone provided all the following requirements are met:
 - a. The State and County Highways included within the Highway Corridor are S.R. 54, S.R. 85, S.R. 92, S.R. 74, S.R. 314, S.R. 279, S.R. 138, and 85 Connector.
 - b. The Highway Corridor tower overlay zone permits towers in any zoning district when located within 1,000 feet of the right-of-way on either side of the aforementioned roads in unincorporated areas of Fayette County.
 - c. Towers in excess of 250 feet in height in the Highway Corridor shall require public hearings before the Planning Commission and Board of Commissioners.
 - d. All new towers, excluding alternative tower structures, located within the Highway Corridor that are 70 feet or greater in height shall not be located within one (1) statute mile from any existing or planned towers (within any local government jurisdiction) that are 70 feet or greater in height. This minimum distance requirement shall not apply from existing governmentally-owned towers where co-location is not permitted or from alternative tower structures.
2. *Outside of the Highway Corridor.*

- a. Outside of the Highway Corridor, a tower may be located only in the following zoning districts:
 Manufacturing and Heavy Industrial District (M-2);
 Light Industrial District (M-1);
 Highway Commercial District (C-H);
 Community Commercial District (C-C);
Planned Unit Development (PUD) excluding PUD-PRD;

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- Agricultural Residential (A-R); and
 - R-70 Single-Family Residential District.
 - b. Towers in excess of 180 feet in height outside of the Highway Corridor shall require public hearings before the Planning Commission and Board of Commissioners.
 - c. All new towers, excluding alternative tower structures, located outside of the Highway Corridor that are 70 feet or greater in height shall not be located within one and one-half (1.50) statute miles from any existing or planned towers (within any local government jurisdiction) that are 70 feet or greater in height. This minimum distance requirement shall not apply from existing government-owned towers where co-location is not permitted or from alternative tower structures.
- 3. *Alternative Tower Structures.*
 - a. The purpose of an alternative tower structure is to diminish, camouflage, or conceal the appearance of towers and antennas to reduce the visual impact on surrounding properties and streets. Depending on the nature of the site, the proposed alternative tower structure shall be appropriate and in character with its surroundings. For example, the use of a monopine is more fitting on a site with stands of mature trees; whereas, the use of a flag pole or light pole alternative tower structure is more suitable for the developed portion of a site.
 - b. Alternative tower structures shall comply with the General Requirements herein with the exception of the setback requirements from off-site residences, security fencing requirements, landscape requirements, and tower separation requirements of both the Highway Corridor and outside of the Highway Corridor. Alternative tower structures shall be allowed in the Highway Corridor, outside of the Highway Corridor in the zoning districts listed herein, and in conjunction with the following existing Conditional Uses:
 - i. Church or Other Place of Worship;
 - ii. Developed Residential Recreational/Amenity Areas;
 - iii. Private School; and
 - iv. Telephone, Electric, or Gas Sub-Station or Other Public Utility Facilities.
 - c. Alternative tower structures, in conjunction with the above listed Conditional Uses, shall meet the setbacks established in the General Requirements or the Conditional Use setbacks, whichever is greater.
 - d. An alternative tower in excess of 120 feet in height shall require public hearings before the Planning Commission and Board of Commissioners.

- e. A maximum of one (1) alternative tower structure shall be allowed per lot.
- f. The alternative tower structure shall match the visual simulation depiction and engineering detail and specification drawings from the manufacturer/supplier of the alternative tower structure specifically proposed for the site.
- g. *Design Review and Approval Process:* Alternative tower structures shall go through a Design Review and Approval Process before the Planning Commission. The purpose of this Design Review and Approval Process is to determine that the alternative tower structure type is appropriate for the site and surrounding area and set requirements for the alternative tower structure type, placement on the site,

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equipment structures, fencing and landscaping.

The Design Review and Approval Process application shall include the following:

- i. An analysis of the nature and character of the site and how the alternative tower structure is appropriate in context to the site and the view from surrounding properties and streets;
- ii. A visual simulation consisting of color photographs of the proposed site with the existing view and with a depiction of the proposed tower, from a minimum of four (4) distinct quadrants (generally north, east, south, and west), to demonstrate the visual impact on surrounding properties and streets; and
- iii. Engineering detail and specification drawings from the manufacturer/supplier of the alternative tower structure specifically proposed for the site which shall indicate all applicable requirements herein.
- h. *Monopine Towers.*
 - i. Monopine towers shall maintain the natural conical appearance of a loblolly pine tree. Antennas shall be placed a minimum of five (5) feet below the top of the tower, as measured from the highest point of the antenna to maintain said appearance.
 - ii. Foliage shall be green in color and the tower shall be brown in color. The antennas shall be green to blend with the foliage and the foliage shall extend a minimum of one (1) foot beyond the antennas. The foliage shall be UV resistant to reduce degradation and fading and constructed to withstand winds of 110 MPH, certification of such shall be supplied with the application. Foliage shall be placed on the tower down to the height of the foliage of surrounding trees. The structure shall have sufficient limbs at the time of initial installation so that there is no gap between the existing canopy and the lower most limbs of the monopine.
 - iii. The installation of the foliage on the monopine shall be installed prior to final inspections. Foliage on the monopine shall be maintained and/or replaced to the specifications established by the engineering detail and specification drawings from the manufacturer/supplier of the alternative tower structure specifically proposed for the site to retain the screening of the antennas. Upon notice from the County that the foliage is in need of maintenance and/or replacement, the tower owner shall have 90 days to

- make such repairs.
 - i. Flag pole and light pole alternative tower structures shall utilize internal antennas and slick stick design. Flag poles utilized as an alternative tower structure shall be exempt from Article V. *General Provisions, Structures Permitted above the Height Limit.*
- F. *Public Hearings Required to Reduce or Waive Requirements.*
 - 1. Public hearings before the Planning Commission and Board of Commissioners are necessary to reduce or waive requirements for a proposed tower, antenna, or equipment cabinet or

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building that cannot comply with the General Requirements, and/or Supplemental Requirements. The procedure for said public hearings shall follow the procedure for rezoning (see Article XI.) Applicants shall apply for public hearings through the Planning and Zoning Department. The application with deadline submittal and public hearing dates is available in the Planning and Zoning Department. The application shall include the following:

- a. A scaled Concept Plan, drawn on the signed/sealed survey, graphically indicating the lot and leased area, total tower height including antennas, type and design of the tower structure, the boundary of the tower facility, all applicable setbacks (both on and off-site), ingress/egress, landscaping areas, and zoning of the subject property and adjacent property;
- b. ~~An Inventory of Existing or Planned Tower Sites per the standards listed under Supplemental Requirements~~ *Inventory of Existing or Planned Tower Sites. When a proposed tower cannot meet the separation requirements between towers, an Inventory of Existing or Planned Tower Sites shall be required to sufficiently demonstrate that no existing or planned tower can accommodate the proposed antenna. Each applicant for a new tower shall contact the owners of all existing and planned tower sites, including those located within all adjacent municipalities and counties, that are within the search area of the applicant-s proposed tower location. The inventory shall be prepared by a radio frequency engineer. All evidence shall be signed and sealed by appropriate licensed professionals or qualified industry experts. The inventory shall include the following information:*
 - i. All tower owners and the number of carriers for each tower site;*
 - ii. The site location, total height, and design type of each tower;*
 - iii. Details of all existing and planned towers or structures located within the search area and the ability of such to meet the applicant-s engineering requirements, including, but not limited to: sufficient height, structural support strength, and electromagnetic interference with antenna(s) on the existing towers or structures;*
 - iv. Other limiting factors that render existing towers and structures unsuitable; and*
 - v. Letters of rejection for requests to co-locate on all existing and planned*

towers within the service search area of the proposed tower.
The County will engage an independent expert review of the Inventory of Existing and Planned Towers. If the actual cost to the county for independent expert review of the document is greater than the application fee, the applicant shall be billed for the difference and payment shall be made prior to the hearing before the Board of Commissioners.
The Inventories of Existing or Planned Tower Sites are available as an information source to assist other applicants applying for approval under this ordinance, provided; however, that the Planning and Zoning Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

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- c. A balloon test shall be conducted prior to the public hearings. The balloon shall be flown for a minimum of four (4) daylight hours from the location of the proposed tower, at the requested height. The application shall include the date and time of the balloon test and an alternative date, in case of inclement weather. The initial balloon test shall be held on a Saturday and the alternative date may be held on any day of the week. A sign announcing the dates of the balloon test shall be posted on the property by the County a minimum of five (5) calendar days prior to the initial balloon test; and
 - d. The applicant shall submit a visual simulation, based on the balloon test, a minimum of seven (7) calendar days prior to the Planning Commission public hearing. Failure to meet this deadline will postpone the tower application to the next scheduled cycle of public hearings. The visual simulation shall consist of color photographs of the proposed site with the existing view and with a depiction of the proposed tower, from a minimum of four (4) distinct quadrants (generally north, east, south, and west), to demonstrate the visual impact on surrounding properties and streets. An Affidavit certifying that the correct location and height of the tower were utilized in the balloon test shall be submitted with the visual simulation photographs.
2. *Factors Considered in Public Hearing Applications.* The following factors shall be considered when evaluating a tower application:
- a. Height of the proposed tower;
 - b. Distance of the tower to residential structures and residential zoning district boundaries;
 - c. Nature of uses on adjacent and nearby properties;
 - d. Topography of the site and its effect on the efficiency of the tower in terms of coverage;
 - e. Surrounding tree coverage and foliage and its effect on the efficiency of the tower in terms of coverage, as well as, its effect on the visual impact of the tower on surrounding properties and streets;
 - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

- g. Proposed ingress and egress; and
- h. The degree of the tower's compliance with the one (1) statute mile separation (inside the Highway Corridor) or one and one-half (1.5) statute mile separation (outside the Highway Corridor.)

In granting its approval to waive or reduce requirements, the County, through the Board of Commissioners or its designee, may impose conditions that are necessary to minimize the adverse effect of a proposed tower or antenna on adjoining property. A site application shall be submitted within 60 days of the date of approval by the Board of Commissioners or the proposed tower will no longer be deemed a planned tower.

- G. *Site Application Requirements.* All applicants for new tower construction shall include the following:
 - a. completed application forms signed and notarized;
 - b. proof of ownership of the parent tract (latest recorded Warranty Deed);

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- c. site plan prepared by an Engineer, Architect, or Landscape Architect registered by the State of Georgia;
- d. landscape plans (see General Requirements);
- e. provide number of carriers based on maximum height of tower;
- f. ~~provide inventory of Existing or Planned Tower Sites (see General Requirements);~~
- g. ~~a report including all tower specifications and a description of the tower with technical reasons for its design;~~
- h. ~~documentation establishing the structural integrity for the tower's proposed uses;~~
- i. ~~the general capacity of the tower and information necessary to assure that ANSI standards are met;~~
- j. ~~a statement of intent on whether excess space will be leased;~~ **a lease agreement with a minimum of one (1) carrier.**
- k. ~~a copy of the Determination of No Hazard to Air Navigation from the FAA; and~~
- l. ~~a copy of the Carrier's FCC license or application (as applicable for an antenna).~~

Site Plan Requirements. All tower applicants for new towers shall be required to submit a scaled site plan which complies with all applicable requirements of the Development Regulations (see County Code.) Additional information indicated on the site plan shall include:

- a. a signed/sealed survey by a land surveyor registered in the State of Georgia of the parent tract, leased area, and ingress/egress easement, indicating the metes and bounds for each;
- b. total tower height including antennas;
- c. type and design of any tower facility, including location of equipment buildings or cabinets;
- d. distance from nearest off-site residences;
- e. fencing and gate details;
- f. all applicable setbacks for the tower, tower facility, and anchors for guyed tower, as applicable;
- g. distance ~~between~~ **from existing and planned** towers ;
- h. zoning and acreage of parent tract;
- i. zoning of adjacent property; and
- j. other information necessary to assess compliance with this ordinance.

Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer. Site plan submittal shall include completion of a tower application, signed and notarized by both the property owner and the tower company representative/agent.

- H. **Installing an Antenna on an Existing Structure or Co-locating or Replacing an Antenna on an Existing Tower.** The following scenarios shall not require submittal of a **site application or** site plan:
- a. Installing an antenna on an existing structure, so long as said installation adds no more than 20 feet to the height of said existing structure (including buildings, light/utility poles, water towers, or other free standing non-residential structures excluding signs and towers.)
 - b. Co-locating **or replacing** an antenna on any existing tower, so long as, said installation does not **increase the height of the tower and/or** exceed the maximum height of administrative tower approval for that location and complies with all applicable conditions of approval associated with the tower site.

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- c. Enlargement of an existing equipment building, or placement of additional equipment cabinets or buildings at a tower site which does not require an enlargement of the existing tower facility.

Prior to the ~~placement or~~ co-location **or replacement** of any antenna **on an existing tower**, enlargement of an existing equipment building, or placement of additional equipment cabinets or buildings at a tower site, the applicant shall provide written notice to the Zoning Administrator. The notice shall include a depiction of the location, size, and configuration of such antenna on the existing tower and equipment location within the existing tower facility in reference to an existing site plan and **a copy of the FCC license**, ~~a certification from a licensed professional engineer verifying that the antenna will comply with wind load requirements and weight limits for the structure or tower as designed and installed.~~ A **Certificate of Zoning Compliance Form** shall be issued by the Zoning Administrator upon satisfaction of the above **all applicable** requirements, and any applicable building permits/inspections shall be required **subsequent to the issuance of the Certificate of Zoning Compliance**.

Pete Frisina stated H. was amended to clarify the installation of an antenna on an existing structure or collocating/replacing an antenna on an existing tower. He pointed out a copy of the FCC license would be required for an antenna.

- H. ~~Site Application Timeframes.~~ The County shall act on applications for co-locations within 90 days, and all other applications within 150 days. **An application shall not be accepted for review unless, at minimum, it includes completed application forms (signed and notarized), proof of ownership of the parent tract (latest recorded Warranty Deed), and site plan prepared (sealed and signed) by an Engineer, Architect, or Landscape Architect registered by the State of Georgia.** The Zoning Administrator has 30 days to determine if an application is complete. If the Zoning Administrator requests additional information within the 30-day review period, the time it takes the applicant to respond will not count towards the 90 or 150-day time limits. Upon notice that an application is incomplete, the applicant has 30 days to submit all information necessary to complete the application. Failure to complete the application in this timeframe shall result in an automatic withdrawal of the

application, and ~~the~~ proposed tower will no longer be deemed a planned tower, and a site application shall not be submitted for the same property for 60 days.

- I. Site Application Timeframes. An application shall not be accepted for review unless, at minimum, it includes completed application forms (signed and notarized), proof of ownership of the parent tract (latest recorded Warranty Deed) and site plan prepared (sealed and signed) by an Engineer, Architect or Landscape Architect registered by the state of Georgia. The Zoning Administrator has 30 days to determine if an application is complete. Upon notice that an application is incomplete, the applicant has 30 days to submit all necessary information to complete the application. Failure to complete the application in this timeframe shall result in an automatic withdrawal of the application and the proposed tower will no longer be deemed a planned tower and a site application shall not be submitted for the same property for 60 days.

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The County shall act on applications for co-locations within 90 days and all other applications within 150 days. If the Zoning Administrator requests additional information within the 30 day review period as mentioned above, the time it takes the applicant to respond will not count towards the 90 or 150 day timeframe limits.

- J. FAA Determination. Prior to the approval and issuance of the certificate of Zoning Compliance, a copy of a FAA Determination including "Does Not Exceed," "Exceeds But Okay", or "Determination of No Hazard" shall be submitted within the 90 or 150 day timeframe limits, as applicable. Failure to submit the determination in these timeframes shall result in an automatic withdrawal of the application, and the proposed tower will no longer be deemed a planned tower, and a site application shall not be submitted for the same property for 60 days. Any tower that receives a "Determination of Hazard" shall be denied.
- K. FCC License. Prior to the approval and issuance of the Certificate of Zoning Compliance, a copy of the FCC License shall be submitted within the 90 or 150 day timeframe limits, as applicable. Failure to submit the copy of FCC License in these timeframes shall result in an automatic withdrawal of the application, and the proposed tower will no longer be deemed a planned tower, and a site application shall not be submitted for the same property for 60 days.
- L. Private Airport or Heliport Zone. A one (1) statute mile zone is established around any private airport or heliport that is registered with the FAA to prevent a hazard to aviation operations. Since the FAA does not make a determination for a private airport or heliport, a supplemental Federal Aviation Regulations Part 77/FAA Form 7460 study and a "No Hazard" letter prepared by a firm on the GDOT prequalified 1.08 Airport Master Planning list shall be submitted within the 90 or 150 day timeframe limits for an antenna or a tower that is proposed within this zone, as applicable. Any tower that creates a hazard for a private airport or heliport shall be denied.

Pete Frisina stated a study would only be accepted from one of the firms on the GDOT Airport Master Planning list.

- M. Tower Approval Expiration. Approval of a site application by the applicable departments for a tower shall expire 12 months from the date of approval and will no longer be deemed a planned tower,

unless a Certificate of Occupancy has been issued for the tower or the building permit remains active.

Pete Frisina advised the proposed amendments to the Zoning Ordinance which have been discussed for approximately the past 15 months, including the proposed amendments to the Standards for Telecommunication Antennas and Towers, and the preferred method for the county to engage an independent expert for the review of the Inventory of Existing and Planned Towers would be presented at the BOC Workshop scheduled for April 4, 2012. He said hopefully the BOC would instruct staff to advertise the proposed amendments for public hearings in May.

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3. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding: Illegal Nonconforming Lots.

Pete Frisina presented the proposed amendments as following, including proposed amendments from Jim Graw.

ARTICLE III. DEFINITIONS

Bona-fide purchaser in good faith. A person who purchases or acquires, in some other manner, a property in good faith, without the knowledge of any illegal non-conformances.

**ARTICLE VII. CONDITIONAL USES, NONCONFORMANCES,
TRANSPORTATION CORRIDOR OVERLAY ZONE, AND
COMMERCIAL DEVELOPMENT STANDARDS**

Sec. 7-2. Nonconformances.

A. *Nonconforming Lots.* (Place as last paragraph under A.)

Consideration for the Rezoning of Illegal Nonconforming Lots. An illegal nonconforming lot may be considered for rezoning to a Legal Nonconforming Status (LNS) sub-category of the same zoning district. For the purposes of this section, an illegal nonconforming lot is a lot which does not comply with the minimum lot area (acreage), minimum lot width at the building line, and/or the minimum required road frontage; whereas, a variance cannot be granted for said deficiencies by the Zoning Board of Appeals (see Article IX.) After approval of the rezoning, any existing illegal

nonconforming structure(s) which are to remain will need a variance authorized by the Zoning Board of Appeals (see Article IX.) The continuation of an illegal nonconforming use is prohibited. The petition for rezoning to a LNS sub-category of the same zoning district shall be evaluated per the following factors, in addition to those listed under Article XI. Policies, Procedures and Standards Governing Amendment:

1. Whether the applicant is a bona-fide purchaser in good faith of said illegal nonconforming lot without the knowledge of any illegal nonconformance, has provided documentation that there was no disclosure of nonconformance made at the time of acquisition of the property and the property was acquired with a non-contingent contract, as applicable;
2. Whether the applicant created the illegal nonconforming lot by any of his/her actions or has a familial relationship to an individual that created the illegal nonconforming lot;
3. Whether the land owner has attempted to bring the illegal non-conforming lot into compliance. The land owner must provide the county copies of all documentation detailing such attempt(s) and the detailed result of such attempt(s); *(Note: this measure has been discussed before and would imply that if the nonconformance could be eliminated in some manner (acquire more property, etc.) then that should be pursued and documented if it fails to produce results. The County would have to make a determination as to the level someone would have to reach to prove it is not feasible to eliminate the nonconformance.)*

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4. Whether the applicant has executed and signed an affidavit affirming all of the above are true and correct;

Jim Graw noted if an affidavit affirming criteria 1, 2, and 3 is not submitted, then there is a problem.

5. Whether the County issued any building permit(s) for any structure(s) on the illegal nonconforming lot, including the circumstances involved with the issuance of said permits;
6. Whether the subject property is developed or vacant.

Jim Graw pointed out the word “and” had been deleted after each item to allow flexibility for consideration so a lot would not have to meet all six (6) criteria.

The PC concurred.

Where the dimensional requirements of the zoning district cannot be met in terms of the placement of new improvements, a variance authorized by the Zoning Board of Appeals shall be required. In the event that a landlocked Illegal Nonconforming Lot is rezoned to a Legal Nonconforming Status, a 20 foot easement to a public street that has been duly recorded and made a part of the property deed shall be required prior to the issuance of building permits.

Jim Graw presented the proposed below paragraph as follows:

Any legally zoned lot that acquires an illegal nonconforming status through any action (s) taken by the owner(s) of the lot on or after (fill in date ordinance is adopted) shall not be rezoned to a legal nonconforming status (LNS).”

Pete Frisina suggested combining this paragraph with criteria 6. to read as follows:

6. Whether the subject property is developed or vacant. A vacant lot created after the effective date of (insert date of ordinance approval) shall not be given consideration for rezoning to a (LNS) sub-category of the same zoning district.

The PC concurred.

Pete Frisina noted Sec. 11-11. list the other factors that are considered in a rezoning.

Sec. 11-11. Standards for Map Amendment (Rezoning) Evaluation.

All proposed map amendments shall be evaluated with special emphasis being placed on the relationship of the proposal to the Land Use Plan and related development policies of Fayette County. The Zoning Administrator shall prepare a report for each proposed map amendment which shall

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recommend a course of action including recommended conditions, if any. The following factors shall be considered by the Zoning Administrator, the Planning Commission, and the Board of Commissioners when reviewing a request for rezoning:

- A. Whether the zoning proposal is in conformity with the Land Use Plan and policies contained therein;
- B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
- C. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing or planned streets, utilities, or schools;
- D. Whether there is other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

ARTICLE VI. DISTRICT USE REQUIREMENTS

The Legal Nonconforming Status (LNS) designation, as administered in Article VI, shall be considered a sub-category of the particular zoning district.

**ARTICLE VII. CONDITIONAL USES, NONCONFORMANCES,
TRANSPORTATION CORRIDOR OVERLAY ZONE, AND
COMMERCIAL DEVELOPMENT STANDARDS**

Sec. 7-1. Conditional Use Approval. Conditional Uses include certain uses which are allowed in a

particular zoning district, ***including the Legal Nonconforming Status (LNS) sub-category***, provided that all conditions specified under the Zoning Ordinance are met. The Zoning Administrator shall issue a Conditional Use Permit for each use listed below upon compliance with all specified conditions and approvals by the appropriate County officials.

LAND USE ELEMENT

FUTURE LAND USE MAP AND NARRATIVE

Illegal Nonconforming Lots

Illegal nonconforming lots may be given consideration for rezoning to a Legal Nonconforming Status (LNS) sub-category of the same zoning district under Articles VII. and XI. of the Zoning Ordinance.

Pete Frisina advised the proposed amendments would be presented at the BOC Workshop scheduled for April 4, 2012.

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Chairman Thoms asked if there was any further business.

Pete Frisina advised the public hearing scheduled for April 5, 2012, has been cancelled.

Hearing no further comments, Al Gilbert made a motion to adjourn the Public Meeting/Workshop. The motion unanimously passed 5-0. Members voting in favor of adjournment were: Chairman Thoms, Al Gilbert, Bill Beckwith, Jim Graw, and Doug Powell. The Public Meeting/Workshop adjourned at 8:53 P.M.

PLANNING COMMISSION
OF
FAYETTE COUNTY

ATTEST:

TIM THOMS
CHAIRMAN

ROBYN S. WILSON
P.C. SECRETARY